

Securities and Exchange Commission

§ 230.134a

(3) The name and address of a person or persons from whom a written prospectus meeting the requirements of section 10 of the Act may be obtained.

(c) Any of the statements or information specified in paragraph (b) of this section may, but need not, be contained in a communication: (i) Which does no more than state from whom a written prospectus meeting the requirements of section 10 of the Act may be obtained, identify the security, state the price thereof and state by whom orders will be executed; or (ii) which is accompanied or preceded by a prospectus or a summary prospectus which meets the requirements of section 10 of the act at the date of such preliminary communication.

(d) A communication sent or delivered to any person pursuant to this rule which is accompanied or preceded by a prospectus which meets the requirements of section 10 of the Act at the date of such communication, may solicit from the recipient of the communication an offer to buy the security or request the recipient to indicate, upon an enclosed or attached coupon or card, or in some other manner, whether he might be interested in the security, if the communication contains substantially the following statement:

No offer to buy the securities can be accepted and no part of the purchase price can be received until the registration statement has become effective, and any such offer may be withdrawn or revoked, without obligation or commitment of any kind, at any time prior to notice of its acceptance given after the effective date. An indication of interest in response to this advertisement will involve no obligation or commitment of any kind.

Provided, That such statement need not be included in such a communication to a dealer if the communication refers to a prior communication to the dealer, with respect to the same security, in which the statement was included.

(e) In the case of an investment company registered under the Investment Company Act of 1940 that holds itself out as a "money market fund," a communication used under this section

shall contain the disclosure required by § 230.482(a)(7).

(Sec. 2, 48 Stat. 74, as amended; 15 U.S.C. 77b; secs. 2(10), 10(b), 10(c), 10(d), 10(f), and 19(a) of the 1933 Act (15 U.S.C. 77b(10), 77j(b), 77j(c), 77j(d), 77j(f) and 77s(a)); secs. 6, 7, 8, 10, 19(a), 48 Stat. 78, 79, 81, 85; secs. 205, 209, 48 Stat. 906, 908; sec. 301, 54 Stat. 857; sec. 8, 68 Stat. 685; sec. 308(a)(2), 90 Stat. 57; secs. 3(b), 12, 13, 14, 15(d), 23(a), 48 Stat. 882, 892, 894, 895, 901; secs. 203(a), 1, 3, 8, 49 Stat. 704, 1375, 1377, 1379; sec. 202, 68 Stat. 686; secs. 4, 5, 6(d), 78 Stat. 569, 570-574; secs. 1, 2, 3, 82 Stat. 454, 455; secs. 28(c), 1, 2, 3, 4, 5, 84 Stat. 1435, 1497; sec. 105(b), 88 Stat. 1503; secs. 8, 9, 10, 89 Stat. 117, 118, 119; sec. 308(b), 90 Stat. 57; sec. 18, 89 Stat. 155; secs. 202, 203, 204, 91 Stat. 1494, 1498-1500; sec. 20(a), 49 Stat. 833; sec. 319, 53 Stat. 1173; sec. 38, 54 Stat. 841; 15 U.S.C. 77f, 77g, 77h, 77j, 77s(a), 78c(b), 78l, 78m, 78n, 78o(d), 78w(a), 79t(a), 77sss(a), 80a-37; secs. 6, 7, 8, 10, 19(a), 48 Stat. 78, 79, 81, 85, secs. 205, 209, 48 Stat. 906, 908; sec. 301, 54 Stat. 857; sec. 8, 68 Stat. 685; sec. 1, 79 Stat. 1051; sec. 308(a)(2), 90 Stat. 57; secs. 12, 13, 14, 15(d), 23(a), 48 Stat. 892, 895, 901; secs. 1, 3, 8, 49 Stat. 1375, 1377, 1379; sec. 203(a), 49 Stat. 704; sec. 202, 68 Stat. 686; secs. 3, 4, 5, 6, 78 Stat. 565-568, 569, 570-574; secs. 1, 2, 3, 82 Stat. 454, 455; secs. 28(c), 1, 2, 3-5, 84 Stat. 1435, 1497; sec. 105(b), 88 Stat. 1503; secs. 8, 9, 10, 18, 89 Stat. 117, 118, 119, 155; sec. 308(b), 90 Stat. 57; secs. 202, 203, 204, 81 Stat. 1494, 1498, 1499, 1500; 15 U.S.C. 77f, 77g, 77h, 77j, 77s(a), 78l, 78m, 78n, 78o(d), 78w(a))

[20 FR 6524, Sept. 3, 1955, as amended at 23 FR 184, Jan. 10, 1958; 37 FR 10073, May 19, 1972; 39 FR 39869, Nov. 12, 1974; 40 FR 27443, June 30, 1975; 43 FR 47495, Oct. 16, 1978; 44 FR 52818, Sept. 10, 1979; 47 FR 11433, Mar. 16, 1982; 48 FR 19875, May 3, 1983; 58 FR 62029, Nov. 23, 1993; 61 FR 13975, Mar. 28, 1996]

§ 230.134a Options material not deemed a prospectus.

Written materials, including advertisements, relating to standardized options, as that term is defined in Rule 9b-1 under the Securities Exchange Act of 1934, shall not be deemed to be a prospectus for the purposes of section 2(10) of the Securities Act of 1933; *Provided*, That such materials are limited to explanatory information describing the general nature of the standardized options markets or one or more strategies; *And, Provided further*, That:

(a) The potential risks related to options trading generally and to each strategy addressed are explained;

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(b) No past or projected performance figures, including annualized rates of return are used;

(c) No recommendation to purchase or sell any option contract is made;

(d) No specific security is identified, other than

(1) An option or other security exempt from registration under the Act, or

(2) An index option, including the component securities of the index; and

(e) If there is a definitive options disclosure document, as defined in Rule 9b-1 under the Securities Exchange Act of 1934, the materials shall contain the name and address of a person or persons from whom a copy of such document may be obtained.

(15 U.S.C. 77a *et seq.*; secs. 2, 7, 10, 19(a), 48 Stat. 74, 78, 81, 85; secs. 201, 205, 209, 210, 48 Stat. 905, 906, 908; secs. 1-4, 8, 68 Stat. 683, 685; sec. 12(a), 73 Stat. 143; sec. 7(a), 74 Stat. 412; sec. 27(a), 84 Stat. 1433; sec. 308(a)(2), 90 Stat. 57)

[47 FR 41955, Sept. 23, 1982, as amended at 49 FR 12688, Mar. 30, 1984]

§ 230.134b Statements of additional information.

For the purpose only of Section 5(b) of the Act, the term "prospectus" as defined in Section 2(10) of the Act does not include a Statement of Additional Information filed as part of a registration statement on Form N-1A (§ 239.15A and § 274.11A of this chapter), Form N-2 (§ 239.14 and § 274.11a-1 of this chapter), Form N-3 (§ 239.17a and § 274.11b of this chapter), or Form N-4 (§ 239.17b and § 274.11c of this chapter) transmitted prior to the effective date of the registration statement if it is accompanied or preceded by a preliminary prospectus meeting the requirements of § 230.430.

[57 FR 56834, Dec. 1, 1992]

§ 230.135 Notice of proposed registered offerings.

(a) *When notice is not an offer.* For purposes of section 5 of the Act (15 U.S.C. 77e) only, an issuer or a selling security holder (and any person acting on behalf of either of them) that publishes through any medium a notice of a proposed offering to be registered under the Act will not be deemed to

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offer its securities for sale through that notice if:

(1) *Legend.* The notice includes a statement to the effect that it does not constitute an offer of any securities for sale; and

(2) *Limited notice content.* The notice otherwise includes no more than the following information:

(i) The name of the issuer;

(ii) The title, amount and basic terms of the securities offered;

(iii) The amount of the offering, if any, to be made by selling security holders;

(iv) The anticipated timing of the offering;

(v) A brief statement of the manner and the purpose of the offering, without naming the underwriters;

(vi) Whether the issuer is directing its offering to only a particular class of purchasers;

(vii) Any statements or legends required by the laws of any state or foreign country or administrative authority; and

(viii) In the following offerings, the notice may contain additional information, as follows:

(A) *Rights offering.* In a rights offering to existing security holders:

(1) The class of security holders eligible to subscribe;

(2) The subscription ratio and expected subscription price;

(3) The proposed record date;

(4) The anticipated issuance date of the rights; and

(5) The subscription period or expiration date of the rights offering.

(B) *Offering to employees.* In an offering to employees of the issuer or an affiliated company:

(1) The name of the employer;

(2) The class of employees being offered the securities;

(3) The offering price; and

(4) The duration of the offering period.

(C) *Exchange offer.* In an exchange offer:

(1) The basic terms of the exchange offer;

(2) The name of the subject company;

(3) The subject class of securities sought in the exchange offer.

(D) *Rule 145(a) offering.* In a § 230.145(a) offering: